

12 FEBRUARY 2002



Contracting

**NONAPPROPRIATED FUND (NAF)
CONTRACTING POLICY**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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OPR: SAF/AQCP
Supersedes AFI 64-301, 25 January 2002

Certified by: SAF/AQC (Mr. Timothy A. Beyland)
Pages: 7
Distribution: F

This instruction implements AFD 64-3, *Nonappropriated Fund Contracting System*. It provides policy for Air Force nonappropriated fund (NAF) contracting. Purchasing support to other than qualifying Department of Defense (DoD) NAF instrumentalities (NAFIs) is prohibited. It describes the responsibilities of the Air Force NAF Purchasing Office (AFNAFPO) as well as installation NAF contracting responsibilities. This instruction applies to appropriated fund contracting activities when awarding NAF contracts. Purchases with nonappropriated funds are authorized in AFI 34-201, *Use of Nonappropriated Funds*, and AFI 65-106, *Appropriated Fund Support of Morale, Welfare and Recreation and Nonappropriated Fund Instrumentalities*. Maintain and dispose of records created as a result of prescribed processes in accordance with AFMAN 37-139, *Records Disposition Schedule*.

SUMMARY OF REVISIONS

This document is substantially revised and must be completely reviewed.

Adds paragraph **3.2.**, requiring the Services Squadron commander, Division Chief, or equivalent to certify on an annual basis, that NAF contracting is being conducted in accordance with current directives. Deletes paragraph **5.2.** the requirement for the Servicing Contracting Office (SCO) to perform annual oversight review of NAF contracting. Adds paragraph 7, Public-Private Ventures (PPV). Adds paragraph 8, Information Technology Coordination.

1. Responsibilities of the AFNAFPO. The AFNAFPO formulates and oversees NAF contracting procedures throughout the Air Force. Its responsibilities include:

- 1.1. Formulate Air Force NAF contracting procedures.
- 1.2. Manage the Commander's Smart Buy Program (CSBP).

- 1.3. Provide NAF contracting training and issue NAF contracting warrants.
- 1.4. Represent the Air Force on the DoD Subcommittee for NAF Contracting.
- 1.5. Approve ratification actions above the threshold established for base level.
- 1.6. Request the Defense Contract Audit Agency (DCAA) or other qualified source evaluate contracting processes and actions.
- 1.7. Provide direct or individual support for NAF requirements that exceed base-level warrant authority.

2. Responsibilities of the Support Group Commander or Equivalent. The Support Group Commander (or equivalent) assists the installation commander in overseeing NAFIs at the installation by:

- 2.1. Authorizing demonstration of commercial products. Such demonstrations shall be properly controlled to prevent violations of the Joint Ethics Regulation (JER) and Air Force policy.
- 2.2. Approving ratification actions within the limits prescribed in AFMAN 64-302, *Nonappropriated Fund Contracting Procedures*.
- 2.3. Approving concessionaire contracts.

3. Responsibilities of the Services Squadron Commander, Division Chief, or Equivalent. The Services commander, division chief, or equivalent directs services activities at an installation. Contracting responsibilities include:

- 3.1. Presiding over an annual meeting of key NAF contracting personnel to identify methods of improving NAF contracting procedures.
- 3.2. Certifying, on an annual basis, adequate controls are in place and NAF contracting is being conducted in accordance with current directives.
- 3.3. Ensuring NAF personnel receive the proper procurement training, including policies, procedures and standards of conduct.
- 3.4. Ensuring acquisition planning allows for adequate purchasing and delivery lead times.
- 3.5. Ensuring compliance with the CSBP.

4. Responsibilities of the NAF Contracting Officer. This instruction authorizes the NAF contracting officer, at installation level, to make purchases using NAFs. The contracting officer has limited delegation authority. NAF contracting officers:

- 4.1. Delegate authority in accordance with AFMAN 64-302.
- 4.2. Execute orders within the limits of their warrants.
- 4.3. Use the CSBP as the primary source of supply (except as otherwise required) for acquiring products/services.
- 4.4. Comply with the Essential Products Program (EPP).
- 4.5. Settle contract disputes.
- 4.6. Seek legal coordination and review as required or otherwise appropriate.

5. Responsibilities of the Servicing Contracting Office (SCO). The SCO coordinates with NAF contracting officers to ensure an effective NAF contracting program. The SCO shall:

- 5.1. Provide contracting support, technical purchasing assistance, and NAF contract training when requested.
- 5.2. Purchase NAF requirements not specifically assigned to the AFNAFPO or the local NAF contracting officer.
- 5.3. Include NAF requirements in acquisitions for services common to both appropriated and nonappropriated fund supported activities when applicable.

6. Responsibilities of the Servicing Staff Judge Advocate (SJA). The servicing SJA shall provide legal oversight of all NAF contracting activities and conduct annual ethics briefings or other authorized training in compliance with the JER. The SJA shall determine:

- 6.1. Whether a conflict of interest or standards of conduct violation exists.
- 6.2. If NAF contracting actions comply with this instruction as well as AFMAN 64-302 and AFPD 64-3.
- 6.3. If proposed ratifications are legally sufficient.
- 6.4. If proposed resolution of a contract dispute is legally supportable.
- 6.5. The legal sufficiency of proposed contracting actions.

7. Public-Private Ventures (PPV). PPV contracts/agreements must be considered as alternative methods of satisfying capital requirements in excess of \$1 million for Category C MWR activities. PPV arrangements may be used to provide only those services and activities that are within the mission and scope of Morale, Welfare, and Recreation (MWR) programs as authorized in DoDI 1015.13, Department of Defense Procedures for Implementing Public-Private Ventures (PPVs) for Morale, Welfare, and Recreation (MWR) Category C Revenue-Generating Activities. MWR services and activities provided through PPV arrangements must be limited to authorized patrons (AFI 34-262, Services Programs and Use Eligibility).

8. Information Technology Coordination. All AFNAFPO contracts for Automated Information Systems (AISs) and Information Technology (IT) equipment and services must be coordinated with the AFSVA Director, Management Systems prior to award. MAJCOM/base-level contracts for AIS and IT should be coordinated with the supporting Communications Directorate or Communications Squadron to ensure compliance with Air Force IT criteria and standards.

DARLEEN A. DRUYUN
Principal Deputy Assistant Secretary
(Acquisition & Management)

ATTACHMENT 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

DoDI 1015.13, *DoD Procedures for Implementing Public Private Ventures (PPV) for Morale, Welfare, and Recreation (MWR) Category C Revenue Generating Activities*

DoD 5500.7-R, *Joint Ethics Regulation*

DoDI 7700.18, *Nonappropriated and Privately Funded Construction Projects Review and Reporting Procedures*

AFPD 64-3, *The Nonappropriated Fund Contracting System*

AFI 34-201, *Use of Nonappropriated Funds*

AFI 65-106, *Appropriated Fund Support of Morale, Welfare and Recreation and Nonappropriated Fund Instrumentalities*

AFMAN 64-302, *Nonappropriated Fund (NAF) Contracting Procedures*

10 U.S.C. 2667

Public Law 85-536, Small Business Act of 1958

Abbreviations and Acronyms

AFNAFPO—Air Force Nonappropriated Fund Purchasing Office

AIS—Automated Information Systems

APF—Appropriated Fund

CSBP—Commanders Smart Buy Program

DCAA—Defense Contract Audit Agency

DoD—Department of Defense

EPP—Essential Products Program

FAR—Federal Acquisition Regulation

IT Information Technology

JER—Joint Ethics Regulation

MWR—Morale, Welfare, and Recreation

NAF—Nonappropriated Fund

NAFIs—Nonappropriated Fund Instrumentalities

PPV—Public Private Venture

SCO—Servicing Contracting Office

SJA—Staff Judge Advocate

ATTACHMENT 2**MANDATORY NAF CONTRACTING REQUIREMENTS**

A2.1. Air Force personnel, including military, appropriated fund (APF) and NAF civilian employees, are subject to the standards for ethical conduct found in Part 3 of the Federal Acquisition Regulation (FAR), DoD 5500.7-R, *Joint Ethics Regulation (JER)*, and AFPD 64-3, *The Nonappropriated Fund Contracting System*. NAF personnel must periodically review these standards, and address any questions or concerns about these standards to their Staff Judge Advocate.

A2.2. The central NAF purchasing operation at base level shall keep a current copy of this publication on file, either electronically or in hard copy. The Services squadron commander, division chief, or equivalent shall ensure personnel involved in purchasing processes are provided annual training on the JER.

A2.3. The contract clauses and certifications referenced in AFMAN 64-302, are mandatory for NAF contracts.

A2.4. Contracts for individual services must not establish an employer-employee relationship. Use the Internal Revenue Service's 20 Common Law Factors as guidance to determine whether a particular contract is legally supportable.

A2.5. As an instrumentality of the government, a NAFI has the immunities and privileges of the Federal Government under the Constitution of the United States; Federal laws; and international laws, treaties, and agreements. A NAFI is immune from most direct state taxation and state laws, such as licensing and price controls, which would interfere with the NAFI performing its US Government functions. As such, NAF contracts are US Government contracts; however, they do not obligate appropriated funds of the United States.

A2.6. Unless otherwise excluded from further competition, solicit oral or written quotations from a reasonable number of sources to promote competition and ensure that the purchase is advantageous to the NAFI, price and other factors considered. Determine price reasonableness for every acquisition regardless of the dollar amount.

A2.7. Public Law 85-536, Small Business Act of 1958 and FAR guidance relative to small business and other award-preference programs do not apply to NAF contracting. NAF contracts shall be awarded to the firm whose proposal is most advantageous to the NAFI.

A2.8. Supplies and services, enumerated in the Procurement List from the Blind and Other Severely Handicapped, or established as mandatory from the Federal Prison Industries must be purchased from that source.

A2.9. The Federal Property and Administrative Services Act and the Federal Information Requirements Management Regulation do not apply to NAF contracting.

A2.10. Contracting officers must be sure that firms or individuals named in the Consolidated List of Debarred, Suspended, and Ineligible Contractors are not solicited for offers or quotations or awarded contracts except as authorized by the specific type of listing.

ATTACHMENT 3

PUBLIC PRIVATE VENTURES

A3.1. Proposed NAF capital expenditures in excess of \$1 million must be evaluated to determine if a PPV arrangement can satisfy the requirement without compromising the benefit or mission involved. This evaluation must consider the effect of the potential PPV on authorized patrons, the Service activity program, the DoD mission, and the local community.

A3.2. If a PPV is a viable option, an economic analysis must be performed to determine whether a direct NAF expenditure or a PPV provides the best value. Conduct this analysis as prescribed in AFI 34-201, *Use of Nonappropriated Funds (NAFs)*.

A3.2.1. If the PPV option appears economically advantageous, the NAFI shall conduct a commercial viability analysis to determine the PPV parameters and approaches that are feasible. The NAFI must solicit information from potential offerors and provide opportunities for comment by the local community.

A3.2.2. If the PPV option is determined to be both commercially viable and financially preferable, the NAFI will proceed with the procurement process to determine if an acceptable PPV contract can be reached.

A3.3. PPV contracts resulting in privately financed construction projects must be approved and reported in accordance with DoDI 7700.18, *Nonappropriated and Privately Funded Construction Projects Review & Reporting Procedures*.

A3.3.1. If facility ownership is not transferred to the Government upon completion of construction, the arrangement for continued use of the realty where the facility is constructed must be evidenced by a lease conforming to the requirements of 10 U.S.C. 2667. The analysis leading to the decision to lease must be fully documented.

A3.4. PPV fees, commissions, or other payments required by the NAFI PPV contract (other than payments for the lease of real property) must be deposited into the appropriate NAFI account.

A3.5. Prior Headquarters United States Air Force, Director of Services, approval is required for any Air Force NAFI PPV contract.

A3.6. In addition to the approval required in paragraph [A3.5.](#), prior ASD (FMP) approval is required for any NAFI PPV contract that involves:

A3.6.1. Debt service or other loan guarantees, credit enhancement, or occupancy guarantees resulting in potential Federal Government appropriated fund or NAFI liabilities in excess of \$500,000.

A3.6.2. An overseas fast-food restaurant.